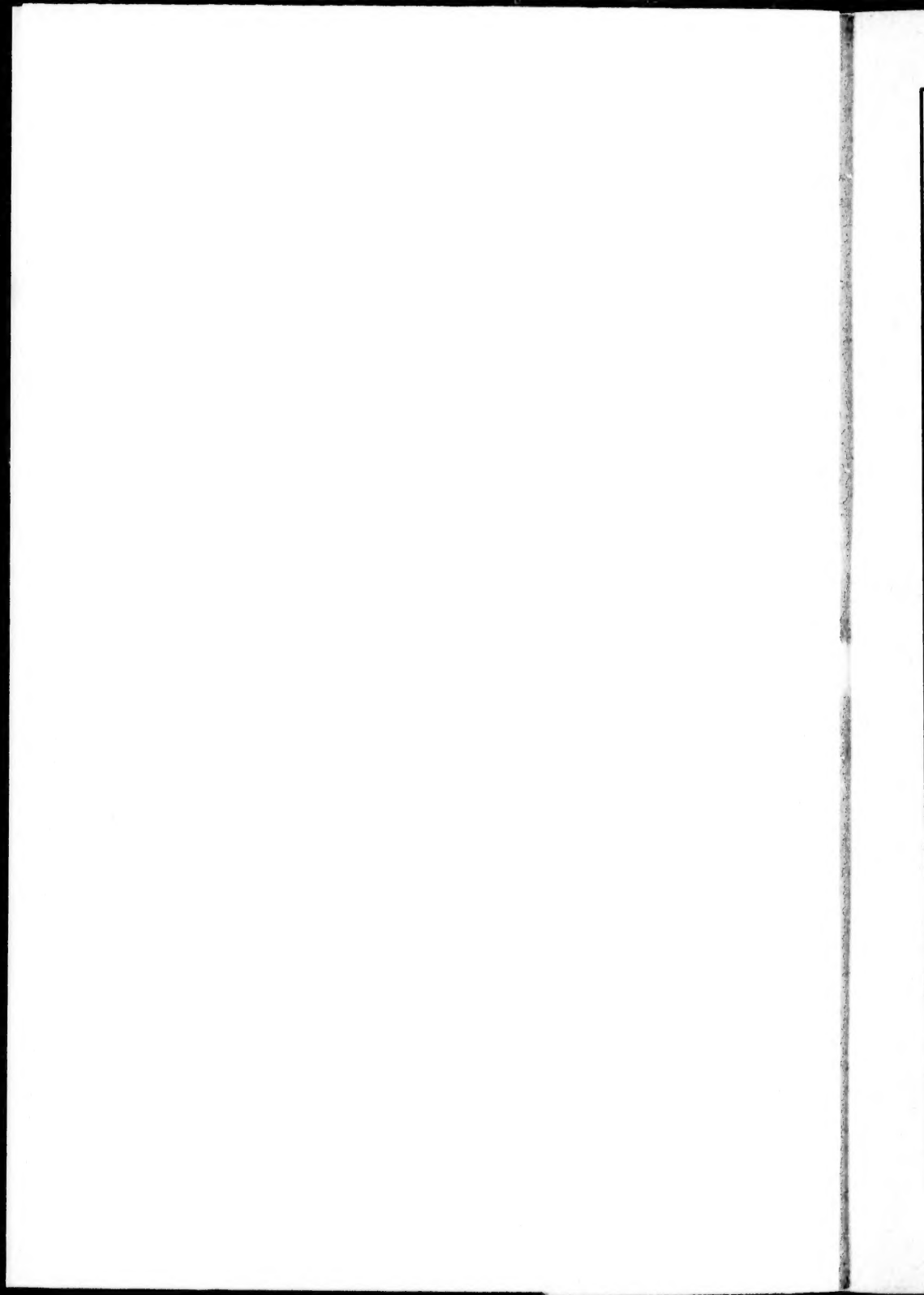




J. H. Lawrence
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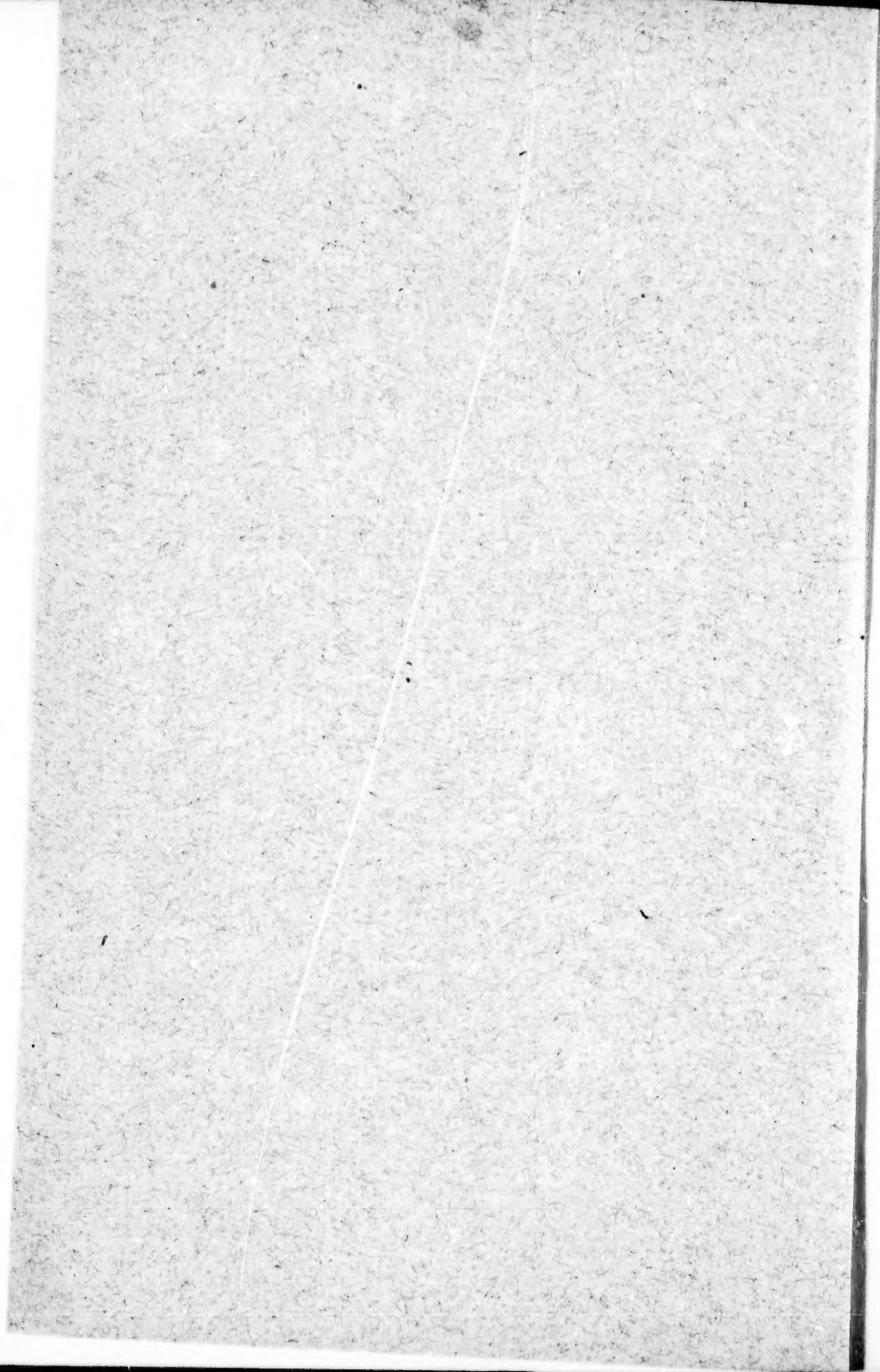
THE

PARISH OF SAINT PAUL

AND THE

MISSION CHAPEL.

SAINT JOHN, N. B.
J. & A. McMILLAN, 98 PRINCE WILLIAM STREET.



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THE following is, it is believed, a correct statement of the facts connected with the recent erection of a so-called "extra parochial" or "proprietary" Chapel, claiming connection with the Church of England, within the limits of the ecclesiastical parish of Saint Paul, Portland; contrary to the expressed dissent and protest of the Rector and the Church Corporation.

The district included in the present parish of Saint Paul formed a part of the parish of Portland until 1856. The Church which formerly stood upon the site now occupied by the present Church building, was erected about the year 1845, as a Chapel of ease to St. Luke's Church, Portland. The land was conveyed by the late Chief Justice Chipman to the Rector, Church Wardens and Vestry of St. Luke's Church; and until, with their consent, the parish of Saint Paul was set off, Saint Paul's Chapel continued to occupy the position of a Chapel of ease; and its services were under the control of the Rector of Saint Luke's Church, Portland.

The parish of Saint Paul was established by Act of Assembly in 1856, (19 Vic. Cap. 50,) which provided "that from and after the second Monday in May in the present year, that part of the parish of Portland in the County of Saint John, which lies to the eastward of a line drawn along the centre of the street passing over the Mill Bridge, and extending northwardly to the Kennebecasis River, shall be, and the same is hereby declared to be a separate and distinct parish, for all purposes Ecclesiastical or relating to the Church of England, by the name of "the Parish of Saint Paul;"—and further, that "all and every the clauses, enactments, and provisions of Title xxviii, Chapter 107 of the Revised Statutes "Of the Church of England" shall extend . . . to the said Parish of Saint Paul, erected by this act, as fully and effectually as if, . . . herein specially . . . enacted."

The subsequent history of the parish is well known; how, first under the Rectorship of the lamented Canon Lee, and since, under the charge of its present Rector, it has ever been a main stay and strong-hold of the Church, foremost in every good work, and ready to help on alike the general work of the Diocese, and every effort which could promote the true interests of the Church of England within the parochial limits which it included.

In the Diöcesan Church Society the parish of Saint Paul has ever taken a warm and active interest. From the first it entered heartily into the formation of the Diöcesan Synod, sending its delegates to the voluntary assembly, until at last all the parishes of the Diocese were happily included in the incorporated Synod in 1871. A commodious school-house was built: the old Church was removed, and the present handsome edifice erected in its place. And here, time and again, have the assembled churchmen of the Diocese been heartily welcomed: nor has its friendly shelter ever been refused, when asked for the members of the Synod or the Church Society at their yearly gatherings, or for services in connection with the various associations helping on the Church's work.

Some four years since the services of a Curate were engaged to assist the Rector, who had previously conducted his parish work alone. The choice made met at once with a general approval, which has never been withdrawn. The number of Sunday-school scholars has increased nearly three-fold, and visitations, especially among the poor, have been more frequently and extensively made both by the Clergy and Sunday-school teachers. The daily services already established were maintained with an increased attendance. Services had long been provided on the Holy days of the Church calendar. Weekly administrations of the Holy Communion, which had been established at the time of the consecration of the present Church in 1871, were continued; and early and even choral celebrations were established, to meet the wishes of those by whom they were preferred.

Ornaments of the Church, within the limits of the law, were received and welcomed. Stained glass windows picturing prophets and apostles, parables, miracles, the crucifixion and the resurrection of our Lord; floral decorations; moveable crosses, and other emblems, were not objected to. No lawful change of ritual which could solemnize or assist the services, was disregarded. The use of music was increased; rising at the offertory, and other minor customs not at one time followed, were adopted; and the tastes and wishes of the small but busy section of parishioners who were forward in urging on further changes were consulted, until their claims, enforced in one instance by the resignation of several members of the Choir, reached a point when they conflicted with the laws and rubrics of the Church at large.

Thus matters stood when, early in 1881, it became known that a movement was on foot for the establishment of an independent Chapel or Mission by some of those whose inclinations were still ungratified. It was stated that a lady, then an attendant of Saint Paul's Church, who has since, it is believed, entered an English Sisterhood, had consented to give a sum of \$10,000 for the erection of an independent Mission Chapel in some part either of the City of St. John on the eastern side of the harbour, or of Portland; that various Rectors had been applied to, to permit such erection in one

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or other of their parishes; and that all had refused consent; one suggesting, if real work was intended, a much needed waterside Mission to seamen, under proper control; another stating his opinion that the certain evils of the proposed movement must far outweigh any possible benefits it could, under any circumstances, confer.

The movement was still unlocalised, but at length, in April or May, articles appeared in the City newspapers stating that a ritualistic place of worship was to be erected on a site on Paradise Row, within the limits of the ecclesiastical parish of Saint Paul, and distant about six hundred yards from the parish Church. In one of these articles it was stated that it was proposed to dispense with a Vestry, and to have the Church managed directly through the Bishop.

In these and other publications, expressions have been used tending to associate the Ritualists with the High Church School in the Church of England. It may be said here, once for all, that this is unfair and unjust. The historic High Church School has always existed in the Mother Church. It has been marked by a dutiful obedience to her ways and laws, in their plain interpretation, to which the Ritualists do not aspire. The distinction is perhaps as marked as that between Low Churchmen and the congregations comprising the Reformed Episcopal Church. Between the latter extreme and its ritualistic opposite, there is however this marked distinction:—that the Reformed Episcopal congregations have honestly retired from the Church of England, and given up its prestige and its emoluments; while the Ritualists cling to its name, though they ignore its rubrics; and hope to foster their cause by courting prosecutions, and even imprisonment,—voluntary, on their part, since it can at once be avoided by their ceasing to claim connection with a body with which they cannot act in concert; working on in their own way, and leaving the grand old Church of England in peace to do the same.

On the appearance of the public statement that a Chapel, managed directly through the Bishop, was to be erected in the parish of Saint Paul, the Vestry was at once convened. After careful deliberation, a respectful and solemn protest (a copy of which is annexed hereto; see Appendix A.) was adopted by a unanimous vote; and a copy, signed by the Rector, and properly certified by the authorities of the parish, was sent to the Lord Bishop of the Diocese and Metropolitan of Canada, for his consideration. Its receipt was acknowledged by his Lordship; but the building of the Chapel was continued. It was completed, and, early in the present year, it was opened, under authority, it is asserted, of the Bishop's licence, and in charge of the Rev. John M. Davenport, who, on his arrival from England, was, it is understood, licensed by the Metropolitan to perform services in the Chapel in question.

On Mr. Davenport's arrival, a copy of the protest of the Rector and Church Corporation of the parish of St. Paul was handed to

him; notwithstanding which, he has conducted the services in the Mission Chapel, and no pains have been spared to gather within its walls a congregation, drawn from the surrounding parish Churches, and such other sources as were available.

Later, it has been understood that the Deanery of Saint John have declined to admit Mr. Davenport as a member of the Deanery until the question of the validity of his licence should be determined.

And lastly, on the first of April, 1882, there was recorded in the Registry Office of St. John, a deed dated the 22nd day of August, 1881, conveying, in consideration of \$10,000, the land upon which the Mission Chapel stands, subject to an already existing mortgage for \$2000. No declaration of trust either is contained in the deed, or was registered with it. The conveyance is to five persons "as joint tenants and not as tenants in common, to the only proper use, benefit, and behoof of the said parties hereto of the second part, their heirs and assigns, in manner aforesaid, forever." It was registered apparently to give validity to a second mortgage which next appears, made by four out of the five holders of the property, and securing upon it the sum of \$1500, repayable in three years with interest.

It is important that the law bearing on these facts should be considered.

1. The parochial system of the Church of England has been ascribed to Archbishop Honorius, about the year 636, but it seems rather to depend for its origin upon ancient and immemorial custom.* The system was settled by degrees,† but once determined, the very constitution of a parish in England implied an exclusive control of ecclesiastical affairs by the incumbent within his parochial district. "A parish," says Mr. Cripps, "is that circuit of ground which is committed to the charge of one parson or vicar, or other minister having cure of souls therein."‡

2. The rules of law applicable to the parochial system are to be found in the ecclesiastical law of England. This is not the so-called canon law of Europe.§ There is a common law ecclesiastical; and this common law has been added to, from time to time, by ecclesiastical canons or constitutions; and also by the legislature of the realm, with the Church's expressed or implied consent. And this common law ecclesiastical, with such additions or changes as have thus been duly made, forms the system of ecclesiastical law which now governs the English Church.|| Her common, called for distinction her "unwritten" law, though no longer in point of fact unrecorded; and the various canons and statutes now in force, are contained in the works of her ecclesiastical writers, Lyndwood, Bishop Gibson, Burn, Stephens, Cripps, Phillimore, and others. With them certain

* Burn, *Ecclesiastical Law*, ninth edn., vol. 3, p. 74.

† Hoffman, *Law of the Protestant Episcopal Church*, p. 226.

‡ Cripps, *Laws of the Church and Clergy*, fifth edition, p. 424.

§ Phillimore, *Ecclesiastical Law*, vol. 1, p. 19.

|| Phillimore, vol. 1, pp. 18, 19.

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rules of the general canon law are interwoven. These rules were principally introduced, and considerably modified in their introduction, through the medium of provincial constitutions, passed by the authority of the Metropolitans of England.* Before the reformation these constitutions, (or as they are now generally termed, canons,) received their last confirmation from the Metropolitan, who also had full power to publish and promulge them.† A statute of Henry 8th provided that no constitutions should be thereafter enacted or promulged, without the King's assent.‡

3. It would be difficult to find a more perfect consensus of authority on any point of law, than that existing in the works upon the ecclesiastical law of England, with regard to the common law rights of the Rector within his parish. "The minister of the parish," says Mr. Cripps, "has the same ecclesiastical rights out of his Church as in it, and throughout his whole parish."§ The Bishop cannot grant a licence to officiate in a proprietary or unconsecrated Chapel without the consent of the Rector or Vicar of the parish, "for the cure of souls belongs exclusively to the Rector or Vicar."|| "There is," says Sir Robert Phillimore, "no general principle of ecclesiastical law more firmly established than this; that it is not competent to any clergyman to officiate in any Church or Chapel within the limits of a parish without the consent of the incumbent."** Unconsecrated proprietary Chapels are anomalies unknown to the ecclesiastical constitution of this Kingdom, and can possess no parochial rights.†† And again, this learned Jurist cites the opinion of Dr. Lushington,‡‡ as follows:

"I need not say the ancient canon law of this country knew nothing of proprietary Chapels or unconsecrated Chapels at all. The necessity of the times, and the want of accommodation in the Churches and Chapels in the Metropolis and other large towns, gave rise to the erection of Chapels of this kind, and to the licensing of ministers of the Church of England to perform duty therein. The licence emanates from his (the Bishop's) episcopal authority; he could not however grant such a licence without the consent of the Rector or Vicar of the parish."§§ And it was added, that the Bishop might revoke such licence whenever he thought fit, according to a discretion not examinable by the Ecclesiastical Judge; and that it was not in the power of the Bishop to estop himself from such a remedy, or to confer a permanent right against himself.¶ And in a recent case it has been held by the Court of Arches, not only that the Bishop could not grant a licence

* Phillimore, vol. 1, p. 16.

† See Gibson, Synodus, p. 138. Hook, Lives of Archbishops of Canterbury, vol. 3 p. 181.

‡ Gibson, Codex, vol. 1, p. xxviii.

§ Cripps, Laws of the Church and Clergy, p. 164.

|| Cripps, p. 176.

** Phillimore, vol. 2, p. 1181.

†† Phillimore, vol. 2, p. 1183.

‡‡ Hodgson vs. Dillon, 2 Curteis, 388.

§§ Phillimore, vol. 2, p. 1183.

¶ Phillimore, vol. 2, pp. 1183-4. Cripps, pp. 176-7.

to a clerk to officiate in the parish of another without the consent of the incumbent of the parish, but, further, that, upon the avoidance of the benefice by the incumbent who had given his consent, any succeeding incumbent could signify his dissent to the licence and prevent the clerk from officiating under it.*

The law with respect to Chapels of Ease is the same. In the case of a Chapel of Ease within the parish, Abbott, C. J., says: † "It appears to me that no person can have a right to compel the Vicar of the parish to allow another, although licensed by the Bishop, to officiate in a public Chapel, erected for the ease of the inhabitants of a portion of the parish, and that no such person can officiate without the consent of the Vicar." And the words of Mr. Justice Bayley, in his judgment in the same case, are most decisive. "My opinion," he says, ‡ "is founded upon this general position, that you have no right, without the concurrence of the patron and incumbent, to interfere either with the temporal rights or spiritual obligations of the Vicar. It has been conceded, that if you were to interfere with the temporal rights of the Vicar, the claim of a right of nomination, as resulting from the endowment, could not be supported; but it was argued, that its interference with the spiritual obligations of the Vicar did not stand upon the same footing. It appears to me, that, if the Vicar has the cure of souls co-extensive with the whole limits of his parish, that casts a very serious and important duty upon him; and he has a right and is bound, as the *conservator parochie*, to take care that no person shall deliver doctrine in that parish except under his sanction and authority. It is said that the Bishop will never appoint an unfit person; but if the Vicar has the cure of souls in the parish he has a right to act on his own judgment, and is not bound to trust to the judgment of the Ordinary." §

And again, the law respecting chapels is thus defined by Sir John Nicholl: || "I conceive that, by the general law and the constitutions of the Church of England, no person has a right to erect a new public Chapel, forming part of the ecclesiastical establishment of the Church of England, whether as a Chapel of Ease or otherwise, without the concurrent consent of incumbent, patron, and ordinary. . . . The principles on which the consent of all these parties is required are obvious. The consent of the ordinary is necessary, as the general guardian of the interests and order of

* In this case, decided in 1874, (*Richards vs. Fincher*, L. R. 4 Adm. & Eccl., 255 — 2 Phil. addenda, p. 19) Sir R. Phillimore, in his judgment, says: "The law is perfectly clear upon three points applicable to this case. First, that the Bishop has no authority whatever over any un consecrated proprietary chapel. Secondly, that no clerk in Holy Orders can legally minister therein without the licence of the Bishop, which is not, as is sometimes carelessly said, a licensing of the place, but a licensing of the clerk to perform Divine service in that place. Thirdly, that it is not competent to the Bishop to grant such a licence without the previous consent of the incumbent."

† *Farnworth vs. Bishop of Chester*, 4 B. & C., 569.

‡ 4 B. & C., 570.

§ Cripps, pp. 166-7.

|| *Bliss vs. Woods*, 3 Hagg, 509.

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"the Church, and as the conservator of its constituted establishment.
"The patron is a party, because the rights and value of his patron-
"age may be affected. The incumbent himself is still more im-
"mediately affected, both in his pastoral duties and his pecuniary
"rights, both of which are committed to him when instituted and
"inducted. If chapels can be erected, and ministers be placed
"in them at the nomination of others, not only will it deprive the
"incumbent of the means of directing the spiritual instruction of
"his parishioners, which has been entrusted to him, and which he
"has solemnly undertaken; not only will it produce schisms and
"dissensions, and thereby exert an injurious influence upon the
"religious principles of the parish; but it must almost necessarily
"affect, in some degree, the emoluments of the benefice, as well
"as the pastoral duties of the incumbent." *

4. It will have been noticed that the right of dissent extends beyond the Rector or Incumbent, and may also be exercised by the patron of the living. And in the State of New York, where the law governing the Protestant Episcopal Church is in many respects similar to that of the Church of England in New Brunswick, Judge Hoffman states that the Vestry answer to the patron in England, patronage and advowson having been expressly conferred upon them. † This claim is strengthened in New Brunswick by the terms of the enactments of the Provincial Legislature respecting the Church of England; which evidently contemplate that the Vestry or Church Corporation in each parish shall, subject to the rights of the Rector, be the principal parochial authority, so far as the members of the Church of England are concerned. It may therefore be reasonably claimed that, besides the Rector's right of dissent, a similar right exists in the Church Corporation of each parish, and may be exercised by them. ‡

5. Reference has been made to the mischief which an interference with parochial rights will produce. The question, it must be remembered, is one exclusively relating to the members of the Church of England. Other denominations are not interfered with. Each is free to conduct its own services in any manner it may think proper. And each individual, again, is free to unite for purposes of public or private worship with any other person or persons, as he may deem best. But he cannot, in reason, unite himself, or continue in union with any religious body, already constituted, unless he observes its laws. And each of the bodies, so constituted, has its own. For her own purposes, the Church of England in New Brunswick parcels out the province into parochial districts. In each,

* Stephen, *Laws relating to the Clergy*, vol. 1, pp. 253, 4; and see also Gibson, *Codex*, Vol. 1, pp. 188, 189, (sec. vii.) 211; Burn. Vol. 1, p. 306; Cripps, pp. 464, 5, 7; Phillimore, Vol. 1, p. 310, Vol. 2, pp. 1182, 1833; Hoffman, *Law of Church*, pp. 230, 231, 236, *Eccl. Law in N. Y.*, p. 35.

† *Ecclesiastical Law in N. Y.*, p. 35.

‡ The building of a new church or chapel in any parish may be hindered, not only by the Bishop, but also by any other person who conceives himself to be injured by it. Gibson, *Codex*, Vol. 1, p. 188.

where a sufficient congregation can be gathered, she places a Rector or Incumbent, the "*curator parochie*," bound to guard the doctrine delivered in professed connection with the Church, charged to seek out her members, responsible within his parish for the Church's work. It is her order, and, until she forsakes the parochial for the congregational system, it must remain her law. And while this is so, it cannot be in the power of any number of persons, continuing in her membership, to depart from it; to erect, contrary to the protest of the Rector and the Church Corporation of any parish, a chapel, bearing the name of the Church of England, within its limits; to conduct services over which the Rector has no control. To do so is to abandon the system of the Church of England. The tendency is to substitute anarchy for order, and discord for harmony and peace. The evil is no new one. A constitution of Archbishop Stratford,* so far back as 1342, recites that priests, both regular and secular, by celebrating divine offices in private oratories or chapels, or unconsecrated houses, caused "great danger to souls by drawing "parishioners from their parish churches, and so depriving them of "those wholesome instructions which they used there to receive,"—and provides that all licence granted by the Bishops for unconsecrated places, other than to great and noble men dwelling in places greatly distant from their parish churches, or notoriously sickly and infirm, shall be null and of no force. This canon is still recognized as a part of the ecclesiastical law of England. Under its provision then, as well as by the common law of the church, the Bishop's licence in such a case is nugatory and void.†

6. The rules of law applicable to the organized colonial Dioceses of the Church of England are now clearly ascertained. The members of the Church of England in those Dioceses receive her system and her laws. They occupy, it is true, apart from local legislation, no better position in the eyes of the law than any other religious body; but they occupy also no worse. And, as other religious bodies accept the principles and the system of the communions from which they have sprung or are derived, so does the Church of England in the colonial dependencies of Great Britain, accept as a part of her constitution, as indeed its very ground work and support, the laws and discipline, so far as applicable to colonial conditions, of the Mother Church. The details of the system thus accepted may be varied by subsequent canons of synods, or acts of the local legislature, passed with the Church's express or implied assent. But this very legislation is based on the existence of prior laws, which must indeed be frequently referred to, to illustrate its provisions, and explain the terms it employs.

The following authorities may be briefly stated. "The Church of England, in places where there is no Church established by

* Lyndwood, p. 233. Johnson, *Canons*, part 2, p. 360; and see Burn, vol. 1, pp. 296-7. Phillimore, vol. 2, pp. 1821-2.

† See Cripps, p. 176, n.

she places a Rector to guard the doctrine of the Church, charged to seek for the Church's good, and the parochial for the good of the parish. And while this is the case, persons, continuing in the same position, contrary to the constitution of any parish, in England, within its jurisdiction, the Rector has no control over them. The law of England. The law of the colony for harmony and concord for harmony of the Church of England, then, as I apprehend, they are strictly brethren and members of that Church, though severed by a great distance from their native Country and their parent Church. They are bound by the same doctrines, the same rules, ordinances and discipline. If any recourse should needs be had to the civil tribunals, the questions at issue must be tried by the same rules of law which would prevail if the question were tried in England—with this exception only, that the tribunal would probably be different, and that, as the statutes which constitute certain ecclesiastical tribunals in England do not extend to the colonies, the question would have to be determined by the ordinary civil courts which administer justice in the colonies.”†

While then, apart from the terms of the Charter or Royal Instructions, under authority of which a colony may be constituted, the ecclesiastical law of England is not a necessary part of the law which the settlers carry with them from the Mother Country; it nevertheless, and even in the absence of any reference to the Church of England in such Charter or Instructions, becomes the law applicable to and governing the members of the Church of England, so soon as those of them who are among the colonists have associated themselves together in her name. In New Brunswick, indeed, the Church of England may be said to have been in a sense established as regards her own members. But, even apart from this, they accepted, and are in general bound by the ecclesiastical law of the Mother Church, while they continue in its communion; although from the foundation of the Province there has existed for all persons whomsoever a liberty of conscience in matters of religion; and there is now a perfect toleration and equality in the eyes of the law, of all religious bodies whatever.

The like principles have long been recognized as governing the Protestant Episcopal Church in the United States of America,

* Long *vs.* Bishop of Capetown, 1 Moo. P. C. N. S. 461. Phillimore, vol. 2, p. 2245.

† Bishop of Natal *vs.* Gladstone, L. R. 3 Eq. 37, 38. See also a valuable report to the Provincial Synod of Canada, upon the legal status of the Church of England in Canada, and of its Clergy, illustrating these principles; made by a committee consisting of Chief Justice Draper, Chancellor Bethune, and others in 1872. Synod Journal, 6th Session, pp. 13-31.

which has sprung, like the Colonial Church, from the Mother Church of England.

"Among the many other things brought by our forefathers from the Mother Country," says Mr. Tyler,* "was the English ecclesiastical law, and so far as it was adapted to the situation of the colonies, it became the basis of the colonial law. It entered prominently into the policy of the first settlers, and even now has an actual force and operation in the system of the Protestant Episcopal Church, and its influence is more or less felt throughout all the American Churches."

"It is an admitted maxim," says Judge Hoffman, "that the great body of the common law of England, and of its statute law so far as adapted to the situation of the colonies, was brought to this land from the Mother Country, and formed the basis of colonial law."

"Now this great principle, which pervaded every colony founded by Englishmen, prevailed, in a particular sphere, wherever a Church, upon the basis of that of England, was established. They who belonged to such a Church were members of that of England at the time of their arrival, or voluntarily joined it here. The former brought with them—the latter adopted—the doctrine and discipline, the rules and order of the English Church."

"Undeniable as this proposition seems to be, yet it is necessary, by a fuller statement, to guard it from mistake. The proposition is not, that the Church, as an establishment, with the statutes of supremacy and uniformity, formed part of the law of the colonies, where the charters did not otherwise provide; but the proposition is, that all members of the Church of England in the colonies were subject to the ecclesiastical law of England, except where it was expressly altered or necessarily inapplicable."†

The Provincial Synod of Canada, at its first session, declared its desire that the Church in the Province should continue, as it had been, an integral portion of the United Church of England and Ireland; and this declaration has never been altered or receded from. Thirteen years later, the Synod of Fredericton united with the Provincial Synod, under authority of an Act of the Parliament of Canada and a resolution of the Diocesan Synod, alike affirming that the union was as full and complete, to all intents and purposes, as if the Diocesan Synod had been included in the Province of Canada at the time of the passing of the Act, under authority of which, the Provincial Synod was first assembled. It is not enough to affirm that the Diocese of Fredericton has never expressed a desire to withdraw from the position thus assumed. At session after session its representatives have taken part in the proceedings of the Provincial Synod, recognizing its authority, and accepting its rules. Nor can

* American Ecclesiastical Law, p. 49.

† Hoffman, Law of the Protestant Episcopal Church, pp. 14, 15.

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there be traced, either in the Journals of the Provincial Synod of Canada, or in those of the Diocesan Synod of Fredericton, a desire on the part of the members of the Church of England, there assembled, to forsake the Church's ancient constitution, or her laws

7. It remains to trace the parochial system of the Church of England in New Brunswick through the Royal Instructions to the Governors of the Province, and the enactments of the local Legislature, on the subject.

The province of New Brunswick was established in 1784, under the authority of letters patent issued to Thomas Carleton, Esquire, its first Governor. The territory it included had previously formed a part of the province of Nova Scotia, in which the Church of England was already recognized by enactments of the local Legislature.*

From a very early date† the colonies of England were placed under the jurisdiction of the Bishop of London. It was not until 1787 that Dr. Charles Inglis became Bishop of Nova Scotia; when the provinces of Upper and Lower Canada, Nova Scotia, New Brunswick, Bermuda, and the Island of Newfoundland, were set off to be included in his Diocese.‡

By the terms of Governor Carleton's Commission and Instructions he was empowered to collate any person or persons to any Churches, Chapels, or other Ecclesiastical benefices; he was directed to set apart ground for the building of a Church in each town, and also for a glebe; and to see that a convenient house was built at the common charge for each minister.

The following Instructions are particularly to be noticed:—

71. You shall be careful that the Churches which may hereafter be erected in our said province be well and orderly kept, and that, beside a competent maintenance to be assigned to the minister of each orthodox Church, a convenient house be built at the common charge for each minister.

72. And you are to take care that the parishes be so limited by an Act of Assembly and settled, as you shall find most convenient for accomplishing this good work.

75. And to the end that the Ecclesiastical jurisdiction of the Lord Bishop of London may take place in our province under your government, so far as conveniently may be; We do think fit that you give all countenance and encouragement to the exercise of the same, excepting only the collating to benefices, granting licences for marriages, and probates of wills, which We have reserved to you our Governor, and to the Commander-in-chief of our said province for the time being.

77. And you are to take especial care that a Table of Marriages, established by the canons of the Church of England, be hung up in

* See an interesting paper on the Church of England in New Brunswick, prepared by the late Chief Justice Parker, and published with the Bishop's charge in 1865.

† A. D. 1634. See Anderson, *Hist. Colonial Church*, v. 1, pp. 410-11.

‡ Lee, *Church of England in New Brunswick*, p. 20.

all places of public worship, according to the rites of the Church of England.

Here we find the Crown, as the supreme Ordinary, making provision for the organization of the Church in the newly constituted province; placing the Church under the jurisdiction of the Lord Bishop of London; recognizing the force of the canons of the Church of England; and directing that the parishes should be limited and settled, so as best to promote the Church's work.

The provincial Legislature met for the first time in 1786. One of their earliest enactments* is intituled "An Act for preserving the Church of England, as by law established in this province, and for securing liberty of conscience in matters of religion." It directed that no person should be capable to be admitted to any parsonage or other ecclesiastical benefice or promotion before such time as he should be ordained, according to the form and manner by law established in the Church of England; that the common prayer and service prescribed by the liturgy should be read, and the sacraments and other rites of the Church administered, "in such order, manner and form as in and by the said liturgy is appointed," and that any person having any ecclesiastical benefice or promotion who should presume in any Church, Chapel, or other place of public worship, openly, to use any other form or order of common prayers, administration of sacraments, rites or ceremonies, should be deprived. These provisions are still in force. They were codified, and form a part of chapter 107 of the Revised Statutes of 1854.†

Another enactment‡ of the first session of the Legislature of New Brunswick provided for the subdivision of the several counties into towns or parishes, and defined the limits of each. The county of St. John, exclusive of the city, was divided into the three parishes of Portland, St. Martins, and Lancaster, from which have since been set off the civil and ecclesiastical parishes of Simonds and Musquash, and the ecclesiastical parish of St. Paul.

In 1787, as has been already stated, the ecclesiastical jurisdiction of the Bishop of Nova Scotia was substituted, under authority of letters patent issued to Bishop Inglis, for that of the Bishop of London, as before exercised.

In the year following, the lots of land upon which Trinity Church, St. John, now stands, were conveyed to the Church. The conveyance was made to "The Rector or Incumbent, Church Wardens and Vestry of the City of St. John, for the time being, to them and their successors forever,"§

It would perhaps have been at this time more proper to convey to the Rector alone. Corporations aggregate, consisting of the Rector, Church Wardens and Vestry, were still unauthorized by the Legis-

* 26 Geo. III., c. 4.

† Rev. Stat., Title xxviii, chap. 107, p. 271, "Of the Church of England."

‡ 26 Geo. III., c. 1.

§ See St. John Records, Book B 2, pp. 60, 61, 62.

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In 1789, however, the present system of Church Corporations, copied in substance from the old colonies of Virginia and New York, was introduced. It will have been noticed that, in the parochial division of the province three years before, the city of Saint John had been excepted. The Act now passed† provided that the parish of the Church, known by the name of Trinity Church, in the city of Saint John, should comprehend the whole city, and be called by the name of the Parish of St. John. The Rector, Church Wardens and Vestry were incorporated, and the lots of land already conveyed to the use of the Church were vested in them.

This Act also provided that the Rectors, Church Wardens and Vestries of the several Churches, already erected or to be erected in the various parishes, should, "as soon as they were respectively inducted and appointed, be incorporated in like manner as the Rector, Church Wardens and Vestry of Trinity Church."

This is, it is believed, the first mention in New Brunswick legislation of induction as a requisite to a Rector's full enjoyment of his cure. It is not provided for by a distinct enactment. It is referred to as already required by the common law ecclesiastical, which is thus presumed to be in force. The same may be said of other expressions in the Acts of Assembly relating to the Church.

It has been decided that the effect of this statute was not to do away with the Rector's rights as a corporation sole; but that it was in furtherance of the common law as it had before existed.‡

Such is the foundation of the parochial system of the Church of England in New Brunswick; a system based upon the ecclesiastical law of the Mother Church, with the addition of the Corporation aggregate, consisting of the Rector, Church Wardens and Vestry, formed under authority of the local law. And this appears even more clearly in the course of later legislation. In 1824 it became necessary to divide the parish of St. John and set off the ecclesiastical parish of Carleton. The Act of Assembly§ which effects this recites that many of the inhabitants of the western part of the said City had, "with the assent of the Rector, Church Wardens and Vestry of Trinity Church," petitioned for the establishment of the parish of Carleton, "in order that a separate Rectory or Mission might be there established;" a plain assertion of the principle that such separate Rectory or Mission should not be established in connection with the Church of England in any parish without the Rector and Church Corporation's assent. The Acts establishing

* Rector, etc., *St. Stephen vs. Tortelot*, 1 Kerr, 537; *Rector of Hampton vs. Titus*, 1 Allen, 278. See, also, Report of Ch. J. Draper's Committee to the Provincial Synod. *Journal Sixth Session*, p. 28.

† 29 Geo. III, c. 1.

‡ *Rector of Hampton vs. Titus*, 1 Allen, 278.

§ 5 Geo. IV., c. 19.

the ecclesiastical parishes of St. James* and St. Mark† in St. John and other similar enactments, may also be referred to. In fact, the very necessity for an appeal to the Legislature, to create an ecclesiastical parish, proves the recognition of the principle that no Rector could, except through such an appeal, be interfered with in his parochial rights.

It is true that in some instances divisions of parishes were effected by the Legislature, upon the application of a considerable portion of the parish, without the Rector's consent. But it must be remembered that, until the Diocesan Synod was established, the Church of England in New Brunswick possessed no Legislature of her own. She looked directly to the Provincial Parliament when changes in her system were to be considered or carried out. It formed her only Court of Appeal in such cases. She accepted in the fullest manner the enactments it prepared. She acted upon them in her own subsequent proceedings, yielding an assent, express or implied, to their provisions, as though she claimed the civil Legislature for her own. And yet she was without the power to control its actions or guide its conclusions in accordance with her own principles and laws. It is little wonder indeed, if the Legislature, when appealed to under such circumstances, should have dealt with the exceptional case before them on its own merits, and accepted without hesitation the post of arbiter between the Rector, and a considerable portion of his people; who asked, not to establish a private or proprietary Chapel close to the parish Church, but to be constituted into a new and distinct parish.

The case is now different. The civil Legislature still retains in some cases a direct control over alterations in the Church's laws. It forms, it may be said, a final Court of Appeal for a minority opposed to some change which a majority in the Synod may desire. This cannot indeed be prevented. But where there is no such minority, and all the members of the Church are agreed, the Legislature cannot, in matters affecting the Church of England only with reason interfere. Nor, on the other hand, can it now rightly fully claim to make enactments relating to the Church of England which have not first been considered by the Diocesan Synod and received its assent. It is a remarkable circumstance, that while, in many instances before the Synod was established, ecclesiastical parishes were set off, and in every case it is believed recognized by the Church; one such case only has since been attempted, and that division has practically been ignored‡ while a mission of the Church of England has been established within the limits of the so called ecclesiastical parish; not however in connection with it, but with an ordinary parochial division§ effected about the same time. Nor is it to be supposed that any persons calling themselves Churchmen

* 15 Vic., c. 17. † 16 Vic., c. 12.

‡ St. Mark's, Sussex, 37 Vic., c. 39.

§ Waterford, 37 Vic., c. 42.

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would now presume to bring before the civil Legislature an enactment affecting the rights or the laws of the Church of England, until it had been considered and approved by her own representatives in Synod convened.*

Other enactments which may be referred to are those,† now incorporated in the Revised Statutes, providing for the Rector of a parish having the charge of any church or churches in the same or any other parish, "there being no other legally licensed priest or deacon in holy orders officiating in such other parish;"‡ and the provision that the lands conveyed to the use of any church erected in any parish, with any Church built thereon, shall be vested in the Church corporation for such parish, in fee.§ The first general free Church Act|| again, declared that nothing it contained should authorise the erection of more than one Church corporation of the Church of England in any parish. And in the Act ** establishing Trinity Mission Church, St. Stephen, it was thought necessary to provide that the clergyman who had its charge, and also the Rector of Christ Church, St. Stephen, should have full power to visit and administer the sacraments outside the limits of the districts which the Act assigned to each.

In 1845 the unwieldy Diocese of Nova Scotia was divided, and the Diocese of Fredericton was constituted under authority of letters patent bearing date the 25th April in that year. The Crown has its well recognized prerogatives, and can exercise them in the colonies as well as in England itself.†† The letters patent were valid to create the Diocese, and to constitute the Lord Bishop a corporation sole.‡‡ But it has long since been decided that they could confer no coercive jurisdiction, nor could they add to, alter, or dispense with the already existing law of the Church. It may be noticed, however, that they distinctly recognize the Metropolitan jurisdiction of the see of Canterbury, and provide that the newly appointed Bishop "may perform all the functions peculiar and appropriate to the office of Bishop within the said Diocese of Fredericton, and may exercise jurisdiction, spiritual and ecclesiastical, throughout the said Diocese, according to the ecclesiastical laws now in force in England." This clause could not vary the existing law; but it is

* This remark, of course, does not apply to any strictly local act affecting parish property only, as to which there is a general agreement in the parish concerned.

† 7 Vic., c. 25, and 9 Vic., c. 18.

‡ Rev. Stat., c. 107, s. 4.

§ Rev. Stat., c. 107, s. 8. A practice has, it is believed, in some cases been adopted, of conveying Church property within the limits of or held in connection with a parish, to the Lord Bishop in his corporate capacity. This may be necessary in cases where there is no parochial organization, but the property should be conveyed to the Church corporation as soon as it has been formed. (See Rev. Stat., c. 107, s. 8.) Where a Church corporation already exists there appears to be no sufficient reason for it, but the reverse. A similar practice has led to disastrous results in the Church in South Africa. See Bishop Gray's Life, *passim*.

|| 9 Vic., c. 17, s. 3.

** 33 Vic., c. 35, s. 5.

†† See Doc. ex dem. St. George's Church vs. Cogle, 2 Hannay, pp. 116-17.

‡‡ See Doc. ex dem. St. George's Church vs. Cogle, 2 Hannay, 96. Report of Chief Justice Draper's Committee to Provincial Synod, Journal of Sixth Session, p. 28. Bishop of Fredericton's Charge, 1865, pp. 11-12.

valuable as a renewed declaration that that law, so far as the members of the Church of England in the Diocese were concerned, was the ecclesiastical law of the Mother Church.

The Act of Assembly* establishing the parish of St. Paul "as a separate and distinct parish for all purposes ecclesiastical or relating to the Church of England;" and assigning for its parochial district all that part of Portland lying to the eastward of Mill Street, and its northerly continuation to the Kennebecasis River, has already been referred to. Within the limits of this parochial district, then, so far as the members of the Church of England are concerned, the rights of the Rector and Church Corporation for all purposes ecclesiastical or relating to that church, must exist. They exist by the common law of the Church, they have been recognized and asserted from the foundation of the Province, they are affirmed in repeated enactments of the local Legislature; statutes passed either with the Church's assent, or recognized in her subsequent proceedings.

"While it is quite clear," says Chief Justice Ritchie,† "that there is nothing to be found in any of these statutes which confer on the Church of England or its members any rights or privileges outside of their Church not possessed by every other Church or British subject within the Province; it is equally clear that there are repeated instances of the recognition of the Church of England as existing in this Province, of the Diocese of Fredericton, of the Bishop of that Diocese, of the existence of the rites and ceremonies of, and membership in that church, the establishment of ecclesiastical parishes in connection with the church, and of the presentation to the Rectories, benefices and promotions of the church by the Lieutenant Governor as representing the Crown;‡ all this, while it does not interfere with other Churches or denominations, materially, in our opinion, affects the members of the Church of England as regards the status and government of the Church, and the prerogative of the Crown, as head of that Church."

It is not and cannot be alleged that the civil legislature does not still possess the power to divide any parish for ecclesiastical purposes into districts or otherwise. But it is contended that, since the Church of England has formed a deliberative body of her own, this power will be sparingly exercised. It will be asked whether the case has already had the full consideration of the Synod. It will be asked whether the grounds for the change proposed are just and right. It will be asked whether it has had the proper approval and consent. And it is believed, that, until full consideration before the Diocesan Synod has been had, and the approval of at least a majority of those to whom the care of the parish is committed has been obtained, no proposal, either for the division of a parish, or for the recognition of some new and anomalous system within its limits, claiming connection

* 19 Vic., c. 50.

† Doe ex dem. St. George's Church vs. Cogle, 2 Hannay, 96.

‡ This case arose before the Church Patronage Act was passed in 1869.

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with the Church of England, will be entertained. What could be more contrary to the principles of fairness and justice, than that a few persons should be allowed to portion off a part of a parish or parishes into a separate parochial district, within which, perhaps, scarcely any of their number may reside; or to introduce into the Diocese an anomalous system heretofore unknown within its bounds; and to attach this district or system by civil legislation to the Church of England without her previous consent; to do this contrary to the unanimous protest of the Rector and Church Corporation of the parish concerned; and perhaps even, with attached conditions which may render nugatory the control of the Bishop and the Synod, and authorize, under the name of the Church of England, practices which she has rejected and condemned. Any such proposal should be closely scanned. It is not contended that it may not be enquired into, but the reverse. The Rector and Church Corporation of St. Paul, would probably be the last to wish to exercise a peremptory veto right. But is their unanimous opinion to pass for nothing? Better surely that an "extra-parochial" enthusiasm on the part of a few persons in the City of Saint John and Portland should be hindered; than that a loyal parish, and with it all the parishes in the Diocese, should be told that their protests will be disregarded, and their opinions set at naught.

8. But it may be said that no division of the parish of St. Paul, or any other parish, has as yet been asked; and that the Mission Chapel is merely a "proprietary" Chapel, vested in joint ownership in the five gentlemen whose names appear in the recorded deed. This no doubt is true. No declaration of trust was registered with the conveyance. Such a declaration may very possibly exist. But its terms are unknown, and, so far as appears, the Chapel is strictly "proprietary;" the joint property of the five gentlemen in whose names the title stands.

And here there is need for yet greater caution. It need not be stated that proprietary Chapels have hitherto been unknown in New Brunswick in connection with the Church of England. Churches or Chapels have, in some exceptional cases, been held by the Lord Bishop of the Diocese, with a Rector's consent;* but it is believed that no instance of a Chapel within the limits of an organized parish, vested in private persons, and claiming connection with the Church of England, can be found. And is it desirable that this system, which is broadly neither more nor less than a species of "congregationalism," should be grafted upon the parochial system of the Church? Even in England, in cases where, with the assent of some Rector, proprietary Chapels have been permitted, they are yet looked upon with disfavour and distrust. "It may be observed," says Mr. Cripps, "that whenever any circumstances connected with such Chapels have come before the courts, they appear to have

* As to the danger of this practice, see note, (2) *ante*, p. 15.

been rather unfavourably regarded; and seem to have been considered as innovations, which it was not desirable to encourage;" as Dr. Lushington observes, "they have arisen from the increase of population, and from the necessity of the times; but if under the Church Building Acts, other Churches and Chapels were to be consecrated according to the law of the Church of England, the necessity for these Chapels would cease."* In such a case the Bishop would probably refuse to renew his licence to officiate in these buildings; and the Church would no longer be scandalized by the existence of recognized companies making joint stock speculations upon the religious feelings of their neighbours.†

Nor is this feeling of distrust to be wondered at, when the legal status and position of such a Chapel becomes clearly understood.

(1.) The law is perfectly clear that the Bishop has no authority whatever over any unconsecrated proprietary Chapel.‡ The Chapel is in fact the private property of the persons in whom the title is vested. They may accept or even invite the Bishop's supervision. But this gives him no permanent control. They can revoke the invitation at their pleasure. It may be said that this will not be done. This is, to say the least, uncertain; and the plea of conscience has been urged so far in England, and elsewhere, to justify a disregard of episcopal authority, where it did not agree with preconceived interpretations of the Church's laws, that there may well be some hesitation to accept so loose a system, as an adjunct to the present well defined parochial order of the Church. It is possible, indeed, that some declaration of trust, not yet divulged, may give the Bishop a greater or less control. But this should appear clearly, and until the trust is produced, the case must be considered in the light only of the recorded deed.

But it may be said that the Bishop is willing to accept the responsibility of all this, and the matter should be left to him. The answer is, that the question is one not only for the present Bishop of the Diocese, but for the Church of England in New Brunswick for all time to come. It may be given more fully in the burning words of that stout old-fashioned high churchman, Dean Hook. His Bishop had ventured to attend within his parish some meeting of which the Dean, then Vicar of Coventry, did not approve. The Vicar was indignant. He asserts the principle that the Bishop, outside, of course, of his visitation powers, has no right to enter the parish without the incumbent's consent. He declares that the presbyter should protest against the invasion of his rights. "Let no fear," he says, "of being deemed unfilial deter us. If the Bishop be our father, the Church is our mother, and if our father injure our mother, we must protect her, even against him. I once heard of a man of rank who was about to strike his wife. His son inter-

* Hodgson *vs.* Dillon, 2 Curteis, 388.

† Cripps, *Laws of Church and Clergy*, p. 465.

‡ Sir R. Phillimore, in *Richards vs. Fincher*, 4 L. R., A. & E., 255.

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posed, bound his arms, and carried him out of the room, and then
"he immediately loosed him and let him go. The father instantly
"raised his hand to strike his son. The pious son put his hands
"behind him and said, 'You may strike *me* if you will, I will bear
"it all; but you shall *not* strike my mother.' And so we must deal
"by our Bishop when he would damage the Church by violating her
"principles."^{*}

A Bishop is but a fallible man. With the best intentions, he
may yet mistake the Church's rules, or act in a way injurious to her
interests and her work. And in such a case it is the part of the
truly loyal of the clergy and laity in his Diocese, not to bow with
sycophantic adulation to whatever he may suggest, but respectfully,
temperately, and yet with firmness and decision, to assert the
Church's rights.

(2.) The members of the Church of England in New Brunswick
are now united in the Diocesan Synod. They have declared their
desire that the Church in the Diocese shall continue, as it has been,
in full communion with the Mother Church. They recognize the
canon of Holy Scripture, the Book of Common Prayer, and the
thirty-nine Articles of Religion; and have affirmed their resolution
to preserve the doctrines they contain, unimpaired, to their posterity.

Each newly constituted parish, at its organization, comes under
these provisions freely and without reserve. It could not be other-
wise. There cannot be one constitution for one part of the Diocese,
and another for the remainder; one rule for a portion of the par-
ishes, and another for the rest. No conditions for union, beyond
those bound up in the Synod's constitution and incorporation, can
now be asked or exacted. The Diocese acts together, and its several
parts form one harmonious whole. But for the Mission Chapel, it
has been claimed, that it is to be offered "to the church *upon certain
conditions*, to be approved by the Bishop."[†] It may reasonably be
asked, what is the nature of this donation, and what are the condi-
tions upon which it is proposed to be made. Is it intended that the
property shall be conveyed to the Bishop, or to the Synod; and, if
so, what are the conditions to be claimed? If the conveyance pro-
posed were unconditional, and the Chapel was to be held only for
the purposes of, and in conformity with the laws and rubrics of the
Church of England,‡ it would seem more in accordance with the
practice of the Church to offer it to the Rector and Church Corpo-
ration of the parish as a Chapel of Ease. But "certain conditions"
are to be asserted. What are they? The question is a serious one

* Life of Dean Hook, v. 1, p. 468-9.

† See a pamphlet styled "Mission Chapel," published July, 1881.

‡ It is a serious question whether either the Bishop or the Synod — the one a corporation
sole, the other a corporation aggregate in connection with the Church of England, — can
accept or hold property, in the corporate capacity, upon any other trusts. Special acts have
been thought necessary to enable parochial corporations to assume even charitable trusts.
Nor is it to be supposed that either the Bishop or the Synod would advisedly entertain for a
moment the proposal to put upon them any trust, except in strict connection with the
Church of England.

for the Synod to consider. If conditions or privileges are to be asked for any one Church or Chapel in the Diocese above all others, their tenor and effect should be closely scanned. They should be made public, and not withheld. Full opportunity should be given for their consideration. And, without this, the Synod may well beware of any, the slightest, recognition of a Church or Chapel claiming such peculiar rights.

(3.) The introduction of a system of proprietary or extra-parochial Chapels into the Diocese is a serious matter for the Clergy to consider; and that from no selfish stand point, but in the interests of their people and the Church. The greater number are Rectors of parishes, with well defined parochial rights. How far will these rights be interfered with? It is true, they exercise them only in relation to the members of the Church of England. Nor can they desire to extend them beyond. But is it well that they should be limited even as to their own church? Is such a state of things likely to promote an outspoken faithfulness in the Clergy? They are but human. An influential parishioner, perhaps disappointed in some fancy, or rebuked, however gently, for some sin of wilfulness or pride, will find a ready refuge in the "extra-parochial" Chapel. His welcome is not likely to be otherwise than a warm one. Sympathy will be showered upon him at the expense of the unsympathetic Rector he has left. Is this likely to help the Clergy in their ministrations? Is it desirable that such a system should find a place within the portals of the Church?

Or the Rector essays, as he has been accustomed, his parochial visits. He comes to some door, once wont to open at his approach. It opens no longer. The inmates of the house have joined the "extra-parochial" invasion. Some family of church people move into the parish. Is it to be a race between the parochial Rector and the extra-parochial Priest as to which shall first have them in his fold? Or are both to wait till the new comers themselves select their Church, with the very possible result of their selecting no Church at all? Or, again, the embarrassed Rector, having solved, or at least postponed these difficulties for himself, assembles his Sunday school teachers or district visitors, and proceeds to assign to each their work. No longer can he tell them to seek out all the Church people in the parish they can reach. Nay, he must caution them, lest they should interfere with the congregation of the extra-parochial Chapel. A necessary caution indeed, lest the priest in charge should retaliate by interfering, still more directly, with the Rector's flock. Such results are sad indeed to contemplate. The system can have but one ending; pulpit against pulpit, altar against altar, dissension and division in the parish and the Church.

(4.) But the Church Corporation are also interested, as are too the parishioners whom they represent. It may possibly be asserted that none of the surrounding parishes have, so far, been financially the worse, since the Mission Chapel has been built. This may or

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may not be the case. But the converse proposition, that they would not have been the better for the continued and hearty support of those whom it takes away, will hardly be seriously maintained. In fact, it is impossible but that the duties and responsibilities of the Church Wardens and Vestrymen should be increased if an extra-parochial or congregational system finds its way into the Church. The people who see their Rector interfered with and hampered in his work, will become disheartened. They will give reluctantly, or not at all. And Mission Chapels must necessarily be aggressive. It is their very nature. Comparisons will be drawn between their services and those of the parish Church, which has been left. Newspaper reporters will be politely invited to attend, and warmly welcomed. Interesting paragraphs, describing the services or proceedings, will appear; not perhaps always couched in the exact language, or written with the care to avoid offence, which those who may have suggested, but not actually indited them, might desire. And all this has a tendency to interfere with the parish Church. It is impossible indeed but that the pecuniary position of the parish should, in one way or other, be affected, if such a system prevails; and the parish congregation be rendered less able to bear their portion of the Church's burthen and the Church's work.

(5.) Nor will the difficulty be confined to the limits of the parish interfered with, or its immediate vicinity. Contributions withdrawn, locally, must be replaced. This can be done only by those who remain giving yet more largely. But with very many there is a limit, not so much to the willingness to give, as to the power. They can increase their local payments only by giving less, or ceasing altogether to contribute, to something else. The Diocesan Church Society's funds will thus be inevitably weakened; and the pressure of the burthen, already almost too severe upon the struggling country Missions, become greater than they can bear. The parishes of the Diocese are indeed too intimately linked together for any one to suffer without its affecting all. And be it only one parish in which an extra-parochial Chapel is attempted, or be it in more; be it in one of the poorest parishes of the Diocese, or be it in one which has learnt to sustain itself, the principle involved is the same. The Church of England cannot abandon her old form of Episcopalian polity and parochial order, for a "congregational presbyterianism without any of its constitutional safeguards,"* in any, the smallest of her parishes, without endangering the peace and harmony, the growth and progress of the whole.

Let it not be thought then that the questions which arise in connection with the extra-parochial or Mission Chapel are other than important or momentous. In the beginning of our Prayer Book it is declared that "although the keeping or omitting of a ceremony, in itself considered, is but a small thing; yet the wilful and con-

* See Bishop of Manchester's Charge, November, 1881.

temptuous transgression and breaking of a common order and discipline, is no small offence before God." By the Canons of the Diocesan Synod of Fredericton, the Bishop elected to the See is before his consecration to solemnly promise that he will teach and maintain "the doctrine and discipline of the Church of England." When then we find our Church declaring in one of its most solemn acts that all which is not of doctrine is of discipline; when we find in her no desire to depart from the laws of the Church of England further than local circumstances may require; when we find that the body of the English ecclesiastical law is an undoubted part of discipline in that Church and in the Colonial Church; when we find no discrimination made between what part of discipline is binding and what is annulled, the conclusion seems irresistible that this law, with necessary modifications, still retains its authority among us. And if so, let us beware how we tamper too hastily with its long tried rules. As our common prayer represents the piety, so does the ecclesiastical law of the Church of England represent alike the wisdom and the independence of centuries.

"And what advantage can we reap by severing the tie with the Church of England, in this particular, when the wisest of our fathers cherished the connection in every other, as the pillar and foundation of truth. Far from their thoughts and feelings was that pride of isolation and arrogance of judgment, which would treat the Catholic Church as the newly reared fabric of its members will: as if it were a body in itself, indebted to no one, related to no one, without fathers, without brethren; as if it had fallen like the Roman sacred shield, immediately from heaven!"

"And what advantages do we not lose, when we disclaim this healthful and time honoured union? We abandon (and for a dim, untrodden path) the road illumined by the shining lights of English intellect in the Church and on the bench. For our instruction and guidance we have the well-known names of Coke, Holt, and Hardwicke, of Nichols, Stowell, and Lee, in the tribunals of justice; of Ridley, Gibson, Stillingfleet, and a cloud of others among the English canonists. Under their auspices we shall find 'happier walls' than our own abilities can rear, or our own fancies can devise. Here we may attain to certainty, the mother of quietness and repose." *

* Judge Hoffman.

APPENDIX A.

PROTEST.

Whereas, by Act of Assembly (19 Vic. c. 50), "that part of the parish of Portland in the County of Saint John which lies to the eastward of a line drawn along the centre of the street passing over the Mill Bridge, and extending northwardly to the Kennebecasis River," was "declared to be a separate and distinct Parish for all purposes ecclesiastical, or relating to the Church of England, by the name of The Parish of Saint Paul."

And Whereas, since the erection of the said ecclesiastical parish, a new Church has been erected therein, in place of the Church previously existing there, which said new Church, by Act of Assembly (33 Vic. c. 12), is enacted, "shall be deemed and taken to be the Parish Church of the said Parish of Saint Paul."

And Whereas, The Reverend William H. DeVeber was, on the fourth day of October, in the year 1859, duly presented, inducted, and instituted as Rector of the said parish of Saint Paul, and has ever since that time been, and is now, Rector of the said Parish:

And Whereas, there is good reason to believe that a Church or Chapel of the Church of England is to be erected on land within the said parish of Saint Paul, and in the vicinity of the parish Church, such Church or Chapel to be managed independently of the Rector of the said parish of Saint Paul.

And Whereas, the Rector of the said Parish has never assented to the erection of the said Church or Chapel:

And Whereas, the erection of the said Church or Chapel, to be so used, is contrary to the wishes of the said Rector, and to the wishes of the Church Wardens and Vestry of the said Parish, and (it is believed) of a very large majority of the parishioners of the said Parish:

And Whereas, the erection of such Church or Chapel will necessarily create a division in the Church:

And Whereas, in the opinion of the said the Rector, Church Wardens and Vestry, the erection of any such Church or Chapel within the limits of the said Parish, without the consent of the Rector of the said Parish, is in direct violation of the rights of the said Rector within the said Parish, and of the law and usage governing the Church of England in such cases:

THEREFORE RESOLVED, That the Rector of the said Parish, on his own behalf, does hereby solemnly protest; and the said the Rector, Church Wardens and Vestry of the parish of Saint Paul, do hereby, on behalf of the said Rector and the said Corporation, solemnly protest against the erection, consecration, or licensing for public worship of the Church of England, of any such Church or Chapel, or the intrusion of any Clergyman or Clergymen to minister therein, without the assent of the Rector of the said parish of Saint Paul.

The above Protest was forwarded to His Lordship the Bishop by the Vestry Clerk, having been signed and the Corporate Seal affixed by the Rector of the parish of Saint Paul. A copy was also sent to the Rev. J. M. Davenport.